



The Florida House of Representatives

Chris Sprowls
Speaker

NEWS RELEASE

For Immediate Release:

February 5, 2021

Media Contact:

media@myfloridahouse.gov

(850) 717-5780

House Health & Human Services Chair Burton Introduces COVID-19 Liability Protections for Health Care Entities

TALLAHASSEE, Fla. (February 5, 2021) — Florida House Speaker Chris Sprowls highlighted a draft proposed committee bill (PCB) shared with members of the Health & Human Services Committee (HHS) today in the Florida House to protect the state's health care providers, professionals and nursing homes against COVID-19 claims where they are unnecessarily second-guessed. It would also provide greater protections to businesses and nonprofits that are subject to COVID-19-related claims.

"In the fight against COVID-19, Florida's front-line health care providers have been working around the clock to care for their patients and residents during a once-in-a-lifetime pandemic," said Florida House Speaker Chris Sprowls, R-Palm Harbor. "Our health care providers should be concerned with patients' health not unnecessary legal defense when they're doing the right things to protect themselves, the people under their care, and the visitors to their facilities."

The HHS PCB is follow-up legislation to House Bill 7 filed last month that would protect businesses and nonprofits from frivolous COVID-19-related lawsuits. Separate bills were necessary because of the different standards and different circumstances in the health care arena than with more general businesses. The PCB captures the complexities of protecting the health care sector without unnecessarily putting patients at risk. Covered entities under the PCB include but are not limited to hospitals, assisted-living facilities, nursing homes, mental health facilities, and health care professionals and practitioners.

Florida House Health & Human Services Committee Chair Colleen Burton (R-Lakeland), who will be carrying the PCB, said, "Today we took the first step in protecting those health professionals who put their lives at risk each day to help their patients and residents. We expect them to make judgments in a moment based on their training and experience to make the best decisions. They should not be overburdened by the threat of legal action if they are following public health guidance."

The bill addresses COVID claims related to the provision of health care. Claims not related to the provision of health care are considered under the process described in the aforementioned HB 7.

Under the PCB, claims from patients fall into one of five categories: contraction of COVID-19, delay or omission in scheduling surgery caused by the pandemic, an act or omission providing care during an emergency situation caused by the pandemic, treating COVID-19 patients with new or experimental therapies, or injuries from the exacerbation of pre-existing conditions by COVID-19. For these claims, the liability standard is raised from negligence to gross negligence. An affirmative defense is given for following government guidance or health care standards at the time of the cause of action. And it requires the court to consider the impact of the pandemic on the standard of care.

Non-patient claims against the health care entity covered by the bill are limited to ones that allege contraction of COVID-19 and are subject to the same three-tier threshold outlined in HB 7 for non-health care entities.

As with valid claims under HB 7, the defendant is not liable for claims unless the act or omission was a result of gross negligence by the defendant. The plaintiff must submit an affidavit signed by a licensed physician that states with a reasonable degree of certainty the COVID-related damage was a result of the defendant's action or omission. The defendant must be shown to have been lacking in a good-faith effort to show compliance with authoritative or controlling government-issued health standards or guidance at the time of the cause of action.

The civil action in both patient and non-patient claims must take place within one year after the cause of action accrues or within one year of the effective date of the act if the cause accrued before the effective date of the act. The act is repealed one year and one day after becoming law.

Follow this Health & Human Services Committee PCB at www.myfloridahouse.gov.

###